

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

NOTICE OF HEARING AND APPLICATION FOR INTERIM COMPENSATION

TO: All interested parties.

1. Leonard, O'Brien, Spencer, Gayle & Sayre, Ltd. ("**Firm**") applies for the relief requested below.

2. The Court will hold a hearing on this motion on June 15, 2011 at 10:00 a.m. before the Honorable Robert J. Kressel in Courtroom 8 West, 300 South Fourth Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and served by delivery no later than June 10, 2011 which is five (5) days before the time and date set for the hearing (including, Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this application pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This case was commenced as a voluntary Chapter 7 proceeding on June 4, 2009. The case is now pending before this Court.

5. This motion arises under 11 U.S.C. §331, Bankruptcy Rule 2016(b) and Local Rule 2016-1. This application is filed under Bankruptcy Rule 9014 and Local Rule 9013-2. Applicant requests relief with respect to the allowance of interim compensation for attorneys' fees and expenses incurred by the Firm from September 1, 2010 to April 30, 2011.

6. Attached hereto as Exhibit A is the Court's Order approving this firm's employment as counsel for the Trustee.

7. There was no retainer fee paid to the Firm and the Firm has made two previous interim applications. The Firm was awarded \$372,278.75 for attorney fees and \$11,834.17 for expenses on December 16, 2009. The Firm was awarded \$456,925.75 for attorney fees and \$21,181.36 for expenses on December 10, 2010. The bankruptcy estate has paid the Firm all amounts previously allowed by the Court.

8. The attorneys and paralegals with time entries on this file, their normal hourly rates are as follows: Matthew R. Burton, \$375.00 per hour in 2010 and \$395.00 in 2011, Thomas C. Atmore, \$350.00 per hour, James M. Jorissen, \$350.00 per hour, Grover C. Sayre, \$295.00 per hour, Michael R. O'Brien, \$295.00 per hour, Andrea M. Hauser, \$275.00 per hour, Andrew J. Budish, \$200.00 per hour and Jana Lee Hecker, \$80.00 per hour.

9. The total of fees billed by the Firm is \$323,830.75, together with expenses in the amount of \$17,532.54. A general description of the services provided is as follows:

(a) **General** - This category related to communicating with the client and other interested parties regarding case issues. This category also includes many miscellaneous matters and communications, matters which did not readily fit into any other category and some multiple category entries. Approval is sought for payment of legal fees in this category in the amount of \$78,338.00. See attached Exhibit B.

(b) **2004 Discovery** - Time in this category related to preparing multiple motions for 2004 examinations of various individuals and entities. Issued subpoenas upon various parties for records; reviewing voluminous records produced pursuant to subpoenas and conducted examinations of various parties. Approval is sought for payment of legal fees in this category in the amount of \$23,384.75. See attached Exhibit C.

(c) **Cabo** - The time in this category related to the Adversary Proceeding No. 09-5042 against Jacob Holdings of Ventanas LLC, Jacob Properties of Minnesota LLC, Wells Fargo Bank, Cornerstone Bank, and Chrysler Financial Services Americas, LLC. Correspondence with realtors and interested parties regarding sale of the property and conducting negotiations of the purchase of the estate's interest by a secured creditor. Approval is sought for payment of legal fees in this category in the amount of \$2,438.75. See attached Exhibit D

(d) **Turnover Motions** - The time in this category related to preparing multiple motions for turnover of records from various entities and individuals and reviewing the voluminous documents produced pursuant to turnover orders. Approval is sought for payment of legal fees in this category in the amount of \$6,701.25. See attached Exhibit E.

(e) **Adversary Proceedings** - The time in this category related to reviewing documents and preparing adversary complaints against various entities/individuals. Approval is sought for payment of legal fees in this category in the amount of \$21,113.25. See attached Exhibit F.

(f) **Rowan** - The time in this category related to collecting on the judgment and garnishing various banks to attempt to collect on judgment. Prepared an inspection motion to access home, motions for contempt and an application for default motion. Approval is sought for payment of legal fees in this category in the amount of \$9,683.00. See attached Exhibit G.

(g) **Investigation** - The time in this category related to reviewing documents to investigate the Debtor's assets; numerous correspondences with various parties/entities; reviewed Hecker e-mails on USB drives; research various entities/individuals. Approval is sought for payment of legal fees in this category in the amount of \$41,965.25. See attached Exhibit H.

(h) **PSA Litigation** - The time in this category related to claims to a personal services agreement (PSA) issued to Hecker from the Inver Grove Toyota transaction; prepared a motion to approve settlement agreement addendum. Approval is sought for payment of legal fees in this category in the amount of \$1,471.25. See attached Exhibit I.

(i) **Cornerstone Bank** - The time in this category related to corresponding with opposing counsel regarding the parties' settlement and the rights and claims inherited by the estate. Approval is sought for payment of legal fees in this category in the amount of \$5,019.50. See attached Exhibit J.

(j) **Applications** - The time in this category related to preparing and serving the second interim fee application for approval of payment of attorneys' fees and costs. Approval is sought for payment of legal fees in this category in the amount of \$2,142.00. See attached Exhibit K.

(k) **TCF Bank** - The time in this category related to preparing for and attending hearing on motion to approve settlement with TCF. Approval is sought for payment of legal fees in this category in the amount of \$836.25. See attached Exhibit L.

(l) **Prohofsky** - The time in this category related to reviewing and responding to a remand motion and engaging in settlement negotiations. Approval is sought for payment of legal fees in this category in the amount of \$3,946.50. See attached Exhibit M.

(m) **Spring Hill Country Club** - The time in this category related to communications with the Trustee regarding value of the golf membership at Spring Hill. Approval is sought for payment of legal fees in this category in the amount of \$55.00. See attached Exhibit N.

(n) **Gustafson** – The time in this category related to reviewing appeal order and correspondence with Attorney Bruno. Approval is sought for payment of legal fees in this category in the amount of \$111.25. See attached Exhibit O.

(o) **Mini Cooper** – The time in this category related to communications with the Trustee regarding recovery of the mini cooper. Approval is sought for payment of legal fees in this category in the amount of \$41.25. See attached Exhibit P.

(p) **JM&A** – The time in this category related to reviewing and analyzing voluminous records produced by JM&A and investigating and analyzing claims. An adversary proceeding has been commenced related to these entities. Approval is sought for payment of legal fees in this category in the amount of \$12,808.25. See attached Exhibit Q.

(q) **New Buffalo Auto Sales** - The time in this category related to multiple phone conferences with various parties; preparation of discovery requests and deposition notices; preparation of summary judgment motion and reply, appeal, appellate brief and addendum. This matter is pending. Approval is sought for payment of legal fees in this category in the amount of \$62,079.00. See attached Exhibit R.

(r) **Vision Bank** – The time in this category related to preparation of a demand letter to Vision Bank; reviewed records; settlement negotiations and preparation of settlement documents. Approval is sought for payment of legal fees in this category in the amount of \$5,606.25. The estate received \$400,000.00. See attached Exhibit S.

(s) **Gelco** - The time in this category related to researching Gelco's obligation and relationship of US Bank claim; analyzing potential claim under a Sales Commission Agreement; reviewed voluminous records and multiple meetings with opposing counsel and consummation of a settlement. A motion is pending concurrent with this Application which will result in a payment by Gelco of \$4.1 million dollars of which one-half will be paid to the estate in addition to attorneys' fees incurred. Approval is sought for payment of legal fees in this category in the amount of \$46,090.00. See attached Exhibit T.

(t) **Costs and Disbursements** - The costs and disbursements relate to the time period from September 1, 2010 to April 30, 2011. Approval is sought for payment of costs and disbursements in the amount of \$17,532.54. See attached Exhibits B, F, G, J, K, L, R, S and T.

10. The Firm is not aware of the total amount of other Chapter 7 administrative expense claims but knows that they include other counsel for the Trustee (Randall L. Seaver, Gordon Conn and Wixon Jewelers) and an accounting professional (Linda Berreau). The Firm believes there will be sufficient funds to pay all Chapter 7 administrative expenses. The Firm has been advised that the Trustee has over \$2,000,000.00 in his accounts for this case.

11. The Firm believes that all of the services rendered and described herein are services that were necessary and appropriate to be rendered by legal counsel. However, the Firm agrees to reduce the compensation which it seeks by \$14,000.00, or less than 5%, at the request of the Trustee.

WHEREFORE, the Firm applies for allowance of interim compensation for attorneys' fees in the amount of \$309,830.75 and for allowance of interim compensation for expenses in the amount of \$17,532.54 and requests that the Trustee be authorized to pay such of these fees as is appropriate. Payment to the Firm from unencumbered and non-disputed funds, and only in such amount as the Trustee believes appropriate, considering other unpaid Chapter 7 expenses.

**LEONARD, OBRIEN,
SPENCER, GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: May 23, 2011

By _____
Matthew R. Burton, #210018
Attorneys for Trustee Randall L.
Seaver 100 South Fifth Street, Suite
2500 Minneapolis, MN 55402
(612) 332-1030

VERIFICATION

I, Matthew R. Burton, attorney for the moving party named in the foregoing Application for Interim Compensation, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on May 23, 2011

/e/ Matthew R. Burton

Matthew R. Burton

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7
BKY No. 09-50779

Dennis E. Hecker,

Debtor.

ORDER ALLOWING INTERIM COMPENSATION

The case is before the court on the application of Leonard, O'Brien, Spencer, Gale & Sayre, Ltd. for allowance of attorneys' fees and expenses. Based on the motion and the file, and the court being advised in the premises,

IT IS ORDERED: Interim compensation for services rendered from September 1, 2010 to April 30, 2011 and reimbursement of expenses incurred for the same period are allowed in the following amounts and the trustee may pay the fees and expenses from unencumbered, undisputed funds in such amount as the trustee believes appropriate taking into consideration other unpaid chapter 7 expenses as follows:

Attorneys' Fees:	\$309,830.75
Expenses:	<u>\$ 17,532.54</u>
Total:	\$327,363.29

Dated: _____

United States Bankruptcy Court Judge